

CHAPTER 80-5-5

INCIDENTAL POWERS

80-5-5. 01 Incidental Powers; Approval Procedures.

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(a) The Commissioner may, by a letter opinion, grant to an institution a power which does not already have a specified application process, so long as the exercise of such power is consistent with the objectives of Chapter 1 of Title 7, provided the activity is deemed by the Commissioner to be financial in nature or incidental to the business of banking, and provided the nature of the activity does not pose significant risks to the financial institution. The Commissioner at his or her discretion may seek public comment before he or she approves such an incidental power, if the Commissioner determines that an appropriate public purpose would be served. If such a determination is made, a 30 days' notice and request for comment shall be published in the department's regular monthly bulletin and to such other parties as the Commissioner deems necessary. The Commissioner shall take any comments received into account in making the final decision.

(b) An institution seeking such a specific power shall make a written application in letter form to the Commissioner. Such application shall set out the power or activity desired, the reason for it, the safeguards or protections which will be employed to ensure the continuing sound operation of the institution, any competitive reasons for the request, such as the ability of institutions not primarily regulated by the state of Georgia to perform such an activity, the need or convenience to customers which this activity would serve, any legal justification required under state law, and the financial ability of the institution to support the activity (including compliance with any investment limitations in a separate corporation pursuant to O.C.G.A. §7-1-288).

(c) The Commissioner shall review such requests, may request additional information, and after review of the overall economic and managerial condition of the institution, the complexity and risks involved in the activity, and the factors set out in this rule, as well as any other information deemed pertinent to the facts presented, shall reply by letter to the institution within 10 business days of receipt of complete information either granting, denying, or conditioning approval of the activity.

(d) The Department shall keep a record of all such powers granted, which shall be available at its office for review upon prior notice.

Authority O.C.G.A. §7-1-61; §7-1-261.